IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

Crl.MC.No. 3662 of 2007()

ST.678/2007 of JUDL. MAGISTRATE OF FIRST CLASS COURT - I, IDUKKI
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PETITIONER: ACCUSED

K.A.GEORGE, AGED 50 YEARS
KURUKKOOR HOUSE, KEERITHODU KARA
KANJIKUZHY VILLAGE.

BY ADV. SRI.S.RAJEEV

RESPONDENTS: COMPLAINANT

STATE OF KERALA
REP. BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3662 OF 2007

Dated this the 10th day of December, 2007

O R D E R

Petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance has been taken by the learned Magistrate. The petitioner was enlarged on bail also, it is submitted. Subsequently, consequent to non-appearance of the petitioner, coercive processes have been issued against the petitioner. The case stood posted to 19.10.07. On that day, the petitioner was not present. Counsel for the petitioner applied and the learned Magistrate rejected the application and issued non-bailable warrant against the petitioner.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His absence earlier was not wilful or deliberate. The petitioner is willing to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law

and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which he could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in ***Alice George vs. Deputy Superintendent of Police*** [2003 (1) KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the

Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. In the peculiar facts and circumstances of the case, where the warrant of arrest is issued only on 19.10.07, there shall be a direction that the warrant of arrest issued against the petitioner shall not be executed till 17.12.07. On or before that date, the petitioner shall surrender before the learned Magistrate and seek regular bail.

(R.BASANT, JUDGE)

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